

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

In the matter of the Application of New Century Telecom, Inc., (U-5912-C) for Approval of Stock Purchase Agreement and Related Transfer of Control.

Application 02-10-007  
(Filed October 8, 2002)

**ADMINISTRATIVE LAW JUDGE'S RULING GRANTING THE CONSUMER PROTECTION AND SAFETY DIVISION'S (CPSD'S) MOTION FOR ACCEPTANCE OF ITS LATE-FILED PROTEST AND DIRECTING CPSD TO SUBMIT SWORN TESTIMONY SUPPORTING ITS PROTEST**

On August 1, 2005, the Commission's Consumer Protection and Safety Division (CPSD) filed and served a motion for leave to submit a late-filed protest to Application 02-10-007. A copy of CPSD's protest was attached to the motion. In its protest, CPSD contends that Application (A.) 02-10-007 for authority to transfer control of New Century Telecom, Inc. (NCT) should be denied because NCT has allegedly engaged in illegal and improper activities, including non-payment of regulatory fees, slamming, and the unauthorized transfer of customers between NCT and affiliated companies.

CPSD's motion for acceptance of its late-filed protest is granted. This Ruling is being made pursuant to Rule 45(h), which allows an Administrative Law Judge (ALJ) to rule on a motion before responses or replies are filed.

CPSD shall file and serve by September 7, 2005, sworn testimony that provides the evidentiary basis for CPSD's allegations. CPSD's testimony may also propose fines and other remedies, and should address the disposition of NCT's customers in the event the Commission denies A.02-10-007.

NCT may file and serve rebuttal to CPSD's testimony by no later than September 21, 2005. NCT's rebuttal shall state whether it desires an evidentiary hearing about the matters addressed in CPSD's testimony and/or the assigned ALJ's Ruling dated December 21, 2004. If NCT desires an evidentiary hearing, its rebuttal should identify all disputed facts and propose a schedule for the hearing. NCT shall verify the contents of its rebuttal in accordance with Rule 2.4.

CPSD and NCT shall serve their testimony and rebuttal, respectively, in accordance with the electronic service protocols set forth in Rule 2.3.1.

Therefore, **IT IS RULED** that:

1. The Consumer Protection and Safety Division's (CPSD's) motion for leave to submit a late-filed protest is granted.
2. CPSD shall file and serve by September 7, 2005, sworn testimony that addresses the matters identified in the body of this Ruling.
3. New Century Telecom, Inc. (NCT), may file and serve by no later than September 21, 2005, rebuttal to CPSD's testimony. In its rebuttal, NCT shall state whether it desires an evidentiary hearing regarding the matters addressed in CPSD's testimony and/or the assigned Administrative Law Judge's Ruling dated December 21, 2004. If NCT desires an evidentiary hearing, its rebuttal should identify all disputed facts and propose a schedule for the hearing. NCT shall verify the contents of its rebuttal in accordance with Rule 2.4.
4. CPSD and NCT shall serve their testimony and rebuttal in accordance with the electronic service protocols set forth in Rule 2.3.1.

Dated August 3, 2005, at San Francisco, California.

/s/ TIMOTHY KENNEY  
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Timothy Kenney  
Administrative Law Judge

**CERTIFICATE OF SERVICE**

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Granting the Consumer Protection and Safety Division's (CPSD's) Motion for Acceptance of Its Late-Filed Protest and Directing CPSD to Submit Sworn Testimony Supporting Its Protest on all parties of record in this proceeding or their attorneys of record. In addition, service was also performed by electronic mail.

Dated August 3, 2005, at San Francisco, California.

/s/ KE HUANG

Ke Huang

**N O T I C E**

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to ensure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

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